



APF/1617 *Zhu*

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
PATENT EXAMINING OPERATION

In re Application of:

PETER T. PUGLIESE

Serial No.: 09/989,019

Filed: November 21, 2001

Title: THE USE OF COMBINED
FLAVONES AND ISOFLAVONES TO
TREAT CELLULITE.

Art Unit No.: 1617

Primary Examiner: T.J. Criares

Before Board of Patent Appeals and
Interferences

Board Docket No.: 2005-0545

Patent & Trademark Office-Box 1450
Board of Patent Appeals and Interferences
Alexandria, VA 22313-1450

**REQUEST TO BOPAI TO HAVE PRIMARY EXAMINER TO COMPLETE THE
RECORD ON APPEAL**

Sirs:

Chronology of the on appeal subject case post –filing of briefs and of Examiner's

Answer.

1. c. 6 Aug. 03: Group 1600 Primary Examiner Criares sent application and briefs to the board-notice thereof, being received by the Appellant. (I)
2. 6 Oct. 03: BOPAI Administrator C.R. Feinberg returned file to Primary Examiner to “locate a copy of a full translation for the Lotte reference relied upon in the Examiner’s Answer”. (II)
3. 04: Counsel for Appellant importuned the BOPAI to have the Primary Examiner comply with Board mandate and to supply both BOPAI and Appellant with the Lotte translation. (III)

4. 10 Sept. 04: Primary Examiner apparently forwarded a copy of the Lotte translation to the BOPAI, but did not copy the Appellant on this potentially critical Examiner citation. (IV)

5. 11 Jan. 05: BOPAI mailed a Docketing Notice to Counsel for Appellant and presumably also to the Primary Examiner. (V)

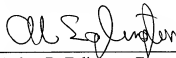
To date, Appellant has not been provided with an Office-generated Lotte publication with its full translation, as to which the Appellant may be privileged to make a commentary to the Board.

Lotte is a citation material to Board review of the appealed claims under rejection. Such a translation of Lotte from the Primary Examiner, per the Board mandate, is respectfully solicited to be sent to Appellant in the interest of fairness.

Dated: 8 Feb 05

Enclosures: 5

Respectfully submitted,



Arthur R. Eglington, Esq.
113 Cross Creek Dr., R.D. 5
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Registration No.: 19,868
Attorney for Appellant



UNITED STATES DEPARTMENT OF COMMERCE

U.S. Patent and Trademark Office

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|---------------------------------|-------------|---------------------------------------------------|---------------------|
| APPLICATION NO./ CONTROL NO. | FILING DATE | FIRST NAMED INVENTOR / PATENT IN REEXAMINATION | ATTORNEY DOCKET NO. |
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| EXAMINER |
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DATE MAILED:

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner for Patents

The reply brief filed May 12, 2003 has been entered and considered. The application has been forwarded to the Board of Patent Appeals and Interferences for decision on the appeal.


THEODORE J. CRIARES
PRIMARY EXAMINER
GROUP 1260/600

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XC to BOBAI w. Inquiry ltr 2/2004



The opinion in support of the decision being entered today was not written for publication and is not binding precedent of the Board.

Paper No. 14

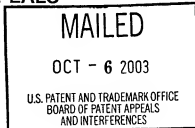
UNITED STATES PATENT AND TRADEMARK OFFICE

**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Ex parte PETER T. PUGLIESE

Application No. 09/989,019

Am 10/8/03



ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was received at the Board of Patent Appeals and Interferences on September 24, 2003. A review of the application has revealed that the application is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the examiner. The matters requiring attention prior to docketing are identified below.

We were unable to locate a complete copy of a translation for the Lotte reference (JP7-61927) relied on by the examiner in the Examiner's Answer (Paper No. 11, mailed April 23, 2003).

II

*xc to BCPAC w. frequency list of 1/2004
ENCLOSURE w. r of 6/2004*



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
PATENT EXAMINING OPERATION

In re Application of:
PETER T. PUGLIESE
Serial No.: 09/989,019
Filed: November 21, 2001
Title: THE USE OF COMBINED
FLAVONES AND ISOFLAVONES TO
TREAT CELLULITE.

Art Unit No.: 1617

Primary Examiner: T.J. Criares

Before Board of Patent Appeals and
Interferences

Board Docket No.:

Patent & Trademark Office
Board of Patent Appeals
Alexandria, VA 22313-1450

**APPELLANT INQUIRY ON BOARD ORDER RETURNING UNDOCKETED
APPEAL TO PTO PRIMARY EXAMINER T.J. CRIARES**

Sirs:

The above-identified application is a subject of an undocketed appeal in which all of the briefs and PTO Answer are already of record. The Honorable Board, on October 6, 2002, returned this cause to the Primary Examiner for the Office to supply to the Board, a complete translation of the earlier relied upon Lotte reference (JPL-61927) set forth in the Examiner's Answer. With a lapse of four plus months, this step has presumably been taken by the Primary Examiner.

In either event, if the Examiner has complied, He has failed to copy the Appellant with a copy of the translation required by the Board. Fundamental fairness calls for the Examiner to do so. The Board is requested to direct the Primary Examiner to supply a photocopy of his submission to the Appellant, and any supplemental Answer.

In the event the Examiner has yet to do so, Appellant asks that the Honorable Board direct prompt compliance with the Board mandate, and to copy the appealing party on any such submission to the board submission.

Dated: February 12, 2004

Enclosures: 2

bc P. Pugliese
610-488-8700

Respectfully submitted,

15/

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III



UNITED STATES DEPARTMENT OF COMMERCE

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Refer to BCPAT 9/30/04

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|---------------------------------|-------------|---------------------------------------------------|---------------------|
| APPLICATION NO./ CONTROL NO. | FILING DATE | FIRST NAMED INVENTOR / PATENT IN REEXAMINATION | ATTORNEY DOCKET NO. |
|---------------------------------|-------------|---------------------------------------------------|---------------------|

EXAMINER

ART UNIT

PAPER

09102004

DATE MAILED:

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner for Patents

In response to the status inquiry filed July 6, 2004, a copy of the translation has been forwarded to the BOPAI. Examiner notes that BOPAI will be reviewing the translation once the translation is of record.

IV



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United States Patent and Trademark Office

Under Secretary of Commerce for Intellectual Property and
Director of the United States Patent and Trademark Office
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

c. Dr. Guglielmo FYI

Paper No:
Appeal No: 2005-0545
Application: 09/989,019
Appellant: Peter T. Pugliese

**Board of Patent Appeals and Interferences
Docketing Notice**

Application 09/989,019 was received from the Technology Center at the Board on December 3, 2004 and has been assigned Appeal No: 2005-0545.



A review of the file indicates that the following documents have been filed by appellant:

Appeal Brief filed on: February 04, 2003
Reply Brief filed on: May 12, 2003
Request for Hearing filed on: NONE

In all future communications regarding this appeal, please include both the application number and the appeal number.

The mailing address for the Board is:

**BOARD OF PATENT APPEALS AND INTERFERENCES
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VIRGINIA 22313-1450**

The facsimile number of the Board is 571-273-0052. Because of the heightened security in the Washington D.C. area, facsimile communications are recommended. Telephone inquiries can be made by calling 571-272-9797 and should be directed to a Program and Resource Administrator.

By order of the Board of Patent Appeals and Interferences

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